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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,182	06/01/2006	Katsuya Teshima	CU-4848 RJS	3232
26530 LADAS & PAF	7590 10/14/200 RRY LLP	EXAMINER		
224 SOUTH MICHIGAN AVENUE SUITE 1600			SONG, MATTHEW J	
	CHICAGO, IL 60604		ART UNIT	PAPER NUMBER
			1792	
			MAIL DATE	DELIVERY MODE
			10/14/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)	
	10/581,182	TESHIMA ET AL.	
Office Action Summary	Examiner	Art Unit	
	MATTHEW J. SONG	1792	
The MAILING DATE of this communication ap Period for Reply	pears on the cover sheet with the o	correspondence address	
A SHORTENED STATUTORY PERIOD FOR REPL WHICHEVER IS LONGER, FROM THE MAILING D - Extensions of time may be available under the provisions of 37 CFR 1. after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period - Failure to reply within the set or extended period for reply will, by statut Any reply received by the Office later than three months after the mailin earned patent term adjustment. See 37 CFR 1.704(b).	PATE OF THIS COMMUNICATION 136(a). In no event, however, may a reply be tir will apply and will expire SIX (6) MONTHS from e, cause the application to become ABANDONE	N. nely filed the mailing date of this communication. ED (35 U.S.C. § 133).	
Status			
 Responsive to communication(s) filed on 13 J This action is FINAL. Since this application is in condition for allowated closed in accordance with the practice under the second seco	s action is non-final. ince except for formal matters, pro		
Disposition of Claims			
4) Claim(s) 29-42 is/are pending in the application 4a) Of the above claim(s) 33-37 is/are withdrays 5) Claim(s) is/are allowed. 6) Claim(s) is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) 29-32 and 38-42 are subject to restri	wn from consideration.		
9) The specification is objected to by the Examine	or		
10) The drawing(s) filed on is/are: a) accomposition and accomposition accomposition and accomposition accomposi	cepted or b) objected to by the drawing(s) be held in abeyance. Section is required if the drawing(s) is ob	e 37 CFR 1.85(a). jected to. See 37 CFR 1.121(d).	
Priority under 35 U.S.C. § 119			
12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of: 1. Certified copies of the priority documen 2. Certified copies of the priority documen 3. Copies of the certified copies of the priority documen application from the International Burea * See the attached detailed Office action for a list	ts have been received. ts have been received in Applicat prity documents have been receive uu (PCT Rule 17.2(a)).	ion No ed in this National Stage	
Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date	4) Interview Summary Paper No(s)/Mail D 5) Notice of Informal F 6) Other:	ate	

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DETAILED ACTION

Election/Restrictions

- 1. Applicant's election of Group I, claims 29-32 and 38-42 in the reply filed on 7/13/2009 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). It is noted that claim 32 was not included in the original restriction requirement filed 6/17/2009, however Applicant has properly noted in the reply that claim 32 belongs with Group I.
- 2. Claims 33-37 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

 Election was made **without** traverse in the reply filed on 7/13/2009.
- 3. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - Claims 29-32, drawn to an artificial corundum crystal, classified in class 501, subclass 86.
 - II. Claims 38-42, drawn to a raw material for producing an artificial corundum crystal, classified in class 75, subclass 235.
- 4. Inventions I and II are related as mutually exclusive species in an intermediate-final product relationship. Distinctness is proven for claims in this relationship if the intermediate

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product is useful to make other than the final product, and the species are patentably distinct (MPEP § 806.05(j)). In the instant case, the intermediate product is deemed to be useful as a raw material for producing a crystal having crystal not having a crystal face selected from the group consisting of a (113), (012), (104), (110), (101), (116), (211), (122), (214), (100), (125) (223), (131) and a (312) face, such as a crystal having a (111) face, and the inventions are deemed patentably distinct because there is nothing of record to show them to be obvious variants.

Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above <u>and</u> there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

- (a) the inventions have acquired a separate status in the art in view of their different classification;
- (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;
- (c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
- (d) the prior art applicable to one invention would not likely be applicable to another invention;
- (e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

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Applicant is advised that the reply to this requirement to be complete must include

(i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

A telephone call was made to Zareefa Flener on 10/12/2009 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the

currently named inventors is no longer an inventor of at least one claim remaining in the

application. Any amendment of inventorship must be accompanied by a request under 37 CFR

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1.48(b) and by the fee required under 37 CFR 1.17(i).

5. Any inquiry concerning this communication or earlier communications from the

examiner should be directed to MATTHEW J. SONG whose telephone number is (571)272-

1468. The examiner can normally be reached on M-F 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Michael Kornakov can be reached on 571-272-1303. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Matthew J Song Examiner

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MJS

October 13, 2009

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/Matthew J Song/ Examiner, Art Unit 1792